



Senate

General Assembly

File No. 420

February Session, 2012

Substitute Senate Bill No. 177

Senate, April 16, 2012

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-528a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2012*):

3 For any application of licensure for the acquisition of a nursing
4 home filed after July 1, 2004, any potential nursing home licensee or
5 owner shall submit, in writing, a change in ownership application with
6 respect to the facility for which the change in ownership is sought. The
7 Department of Public Health shall prepare the change in ownership
8 application which shall include the following statement printed in no
9 less than eighteen-point boldface type of uniform font on the first page
10 of the application: "NOTICE: Any nursing home licensee or owner,
11 including, but not limited to, an officer, director, trustee, limited
12 partner, managing partner, general partner or any person having at
13 least a ten per cent ownership interest in the owner, as well as any
14 administrator, assistant administrator, medical director, director of

15 nursing or assistant director of nursing, may be subject to criminal
16 liability, in addition to civil and administrative sanctions under federal
17 and state law, for the abuse or neglect of a resident of the nursing
18 home perpetrated by an employee of the nursing home." Such
19 application shall include such information as the Commissioner of
20 Public Health deems necessary and whether such potential nursing
21 home licensee or owner (1) has had three or more civil penalties
22 imposed through final order of the commissioner in accordance with
23 the provisions of sections 19a-524 to 19a-528, inclusive, or civil
24 penalties imposed pursuant to the statutes or regulations of another
25 state, during the two-year period preceding the application, (2) has
26 had in any state sanctions, other than civil penalties of less than twenty
27 thousand dollars, imposed through final adjudication under the
28 Medicare or Medicaid program pursuant to Title XVIII or XIX of the
29 federal Social Security Act, 42 USC 301, as from time to time amended,
30 or (3) has had in any state such potential licensee's or owner's
31 Medicare or Medicaid provider agreement terminated or not renewed.
32 In the event that a potential nursing home licensee or owner's
33 application contains information concerning civil penalties, sanctions,
34 terminations or nonrenewals, as described in this section, the
35 commissioner shall not approve the application to acquire another
36 nursing home in this state for a period of five years from the date of
37 final order on such civil penalties, final adjudication of such sanctions,
38 or termination or nonrenewal, except for good cause shown.

39 Sec. 2. (NEW) (*Effective October 1, 2012*) The Department of Public
40 Health shall prepare a notice that includes the following statement
41 printed in no less than eighteen-point boldface type of uniform font:
42 "NOTICE: Any nursing home licensee or owner, including, but not
43 limited to, an officer, director, trustee, limited partner, managing
44 partner, general partner or any person having at least a ten per cent
45 ownership interest in the owner, as well as any administrator, assistant
46 administrator, medical director, director of nursing or assistant
47 director of nursing, may be subject to criminal liability, in addition to
48 civil and administrative sanctions under federal and state law, for the
49 abuse or neglect of a resident of the nursing home perpetrated by an

50 employee of the nursing home.". Such notice shall be provided not
51 later than January 1, 2013, to all persons who have been issued a
52 license to establish, conduct, operate or maintain a nursing home in the
53 state by the Department of Public Health as of September 30, 2012.

54 Sec. 3. (NEW) (*Effective October 1, 2012*) The statement that the
55 Department of Public Health is required to include in change of
56 ownership applications pursuant to section 19a-528a of the general
57 statutes, as amended by this act, and prepare as a notice to be provided
58 to certain licensees pursuant to section 2 of this act shall not be
59 construed as expanding or otherwise affecting the liability of nursing
60 home licensees and owners that may exist at law for the abuse or
61 neglect of a resident of the nursing home.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2012</i>	19a-528a
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section

AGE *Joint Favorable Subst. C/R*

PH

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Public Health, Dept.	GF - Cost	420	None

Note: GF=General Fund

Municipal Impact: None

Explanation

There is an anticipated cost of \$420 in FY 13 to the Department of Public Health (DPH) to provide a printed notice of criminal liability no later than 1/1/13 to persons issued a license to establish, conduct, operate or maintain a nursing home as of 9/30/12. As this notice is required to be included in applications for nursing home administrator licenses starting on 10/1/12, there is no fiscal impact in FY 14 from this requirement. The \$420 FY 13 cost includes expenses for letterhead paper (\$25), window envelopes (\$10), toner for printing (\$10), and postage (\$375 - this reflects a mailing expense of \$0.45 for each notice mailed and assumes 833 notices will be mailed).¹

The Out Years

There is no fiscal impact to DPH anticipated in the out years.

Sources: Department of Public Health

¹ As of 4/11/12, there are 793 nursing home administrators licensed in Connecticut. Forty more are anticipated to become licensed by 9/30/12. Combining these two groups, there will be a total of 833 licensed nursing home administrators in the state as of 9/30/12.

OLR Bill Analysis**sSB 177*****AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.*****SUMMARY:**

This bill requires the Department of Public Health (DPH) to prepare a written application form for changes in nursing home ownership that includes a statement notifying the potential nursing home licensee or owner that he or she may be held criminally liable for abuse or neglect of a resident by a nursing home employee. Specifically, it requires the following statement be placed at the top of the first application page in at least 18-point boldface type:

“NOTICE: Any nursing home licensee or owner, including but not limited to, an officer, director, trustee, limited partner, managing partner, general partner or any person having at least a 10% ownership interest in the owner, as well as any administrator, assistant administrator, medical director, director of nursing or assistant director of nursing, may be subject to criminal liability, in addition to civil and administrative sanctions under federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home.”

The bill also requires DPH to prepare and provide a written copy of the above statement to any person issued a DPH license to establish, conduct, operate or maintain a nursing home in the state as of September 30, 2012. This notice must be printed in at least 18-point bold face type and provided to licensees by January 1, 2013.

The bill specifies that its notification requirements do not expand or otherwise affect the existing statutory liability of current or potential nursing home owners or licensees for the neglect or abuse of residents.

EFFECTIVE DATE: October 1, 2012

BACKGROUND

DPH Applications For Nursing Home Ownership Changes

By law, DPH must approve changes in nursing home ownership. The prospective owner's or licensee's written application must include whether the potential nursing home licensee or owner (1) has had civil penalties for nursing home violations imposed by DPH or another state during any two-year period or (2) received intermediate Medicare or Medicaid sanctions or had provider agreements for these programs terminated or not renewed. The law prohibits the DPH commissioner from approving an application to acquire a nursing home for a five-year period if any of these conditions are present, unless good cause is shown (CGS § 19a-528a).

Evaluation Period for New Licensees

If a person has not previously operated a nursing home in Connecticut, DPH can institute an "evaluation period" of up to five years from the time of initial licensure in order to assess the standard of care the nursing home provides. During this evaluation period, the person is prohibited from acquiring any additional nursing homes (CGS § 19a-493a).

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute Change of Reference

Yea 12 Nay 0 (03/15/2012)

Public Health Committee

Joint Favorable

Yea 24 Nay 4 (03/29/2012)